

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ANA MORENO
Plaintiff

V.

**KEURIG DR PEPPER INC.,
DPS HOLDINGS INC. D/B/A
DR. PEPPER SNAPPLE HOLDINGS
INC., KROGER TEXAS, L.P. and
KROGER CO.
*Defendants***

C.A. NO. 4:21-cv-2665

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

1. Defendants Keurig Dr. Pepper, Inc., DPS Holdings, Inc. d/b/a Dr. Pepper Snapple Holdings, Inc., Kroger Texas, L.P. and Kroger Co. are the Defendants in a civil action filed on or about July 19, 2021 in the 152ND District Court of Harris County, Texas, entitled *Ana Moreno v. Keurig Dr. Pepper, Inc., DPS Holdings, Inc. d/b/a Dr. Pepper Snapple Holdings, Inc., Kroger Texas, L.P. and Kroger Co.*

2. Attached to this Notice of Removal are the following: All executed process in the case, all pleadings, petitions and answers, any orders signed by the state judge, the docket sheet, an index of matters being filed and a list of all counsel of record, including address, telephone numbers and parties represented.

3. The Citation and Petition in this action were served on July 22, 2021 on CT Corporation, registered agent for Defendant. This Notice of Removal is timely filed under 28 U.S.C. § 1446, et seq.

4. The District Courts of the United States have original jurisdiction over this action based on diversity of citizenship among the parties. Plaintiff Ana Moreno is domiciled in Texas and was domiciled there at the time this action was commenced. Plaintiff was at that time and is now a citizen of Texas, as plead in Plaintiff's Original Petition.

5. Defendant DPS Holdings D/B/A Dr. Pepper Snapple Holdings, Inc. is a foreign corporation incorporated and domiciled in Delaware. **Exhibit 1** (SEC state of incorporation filing).

6. Defendant Keurig Dr. Pepper, Inc. is a foreign corporation incorporated and domiciled in Massachusetts. **Exhibit 2** (SEC state of incorporation filing).

7. Defendants Kroger Texas L.P. is a foreign corporation incorporated and domiciled in Ohio. **Exhibit 3** (SEC state of incorporation filing).

8. Defendant Kroger Co. is a foreign corporation incorporated and domiciled in Ohio. **Exhibit 4** (SEC state of incorporation filing).

9. The amount in controversy in this action exceeds, exclusive of interest and costs, the sum of \$75,000. Plaintiff's Original Petition seeks monetary relief between \$200,000.00 and \$1,000,000.00 based on personal injury claims for negligence and respondeat superior. Defendant has demonstrated the amount in controversy meets or exceeds the minimum jurisdictional amount required. **Exhibit 5** (Plaintiff's Original Petition filed in state court).

10. Removal of this action is proper under 28 U.S.C. § 1441, since it is a civil action brought in a state court. The federal district courts have original jurisdiction over

the subject matter under 28 U.S.C. § 1332 because the Plaintiff and Defendants are diverse in citizenship.

WHEREFORE Defendants Keurig Dr. Pepper, Inc., DPS Holdings, Inc. d/b/a Dr. Pepper Snapple Holdings, Inc., Kroger Texas, L.P. and Kroger Co.; pursuant to these statutes and in conformance with the requirements set forth in 28 U.S.C. § 1446, removes this action for trial from the 152ND Judicial District Court of Harris County, Texas to this Honorable Court on this 6th day of August 2021.

Respectfully submitted,

RB LEGAL GROUP, PLLC

By: /s/ Scott R. Breitenwischer

Scott R. Breitenwischer

Attorney in Charge

State Bar No.: 02947695

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****E-SERVICE WITHOUT COPYING
NOTICE@RBLEGALGROUP.COM is not
accepted nor is it effective notice or service
under the Rules****

**COUNSEL FOR DEFENDANTS, KEURIG
DR PEPPER INC., DPS HOLDINGS INC.
D/B/A DR. PEPPER SNAPPLE HOLDINGS
INC. KROGER TEXAS, L.P. and KROGER
CO.**

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CERTIFICATE OF SERVICE

I hereby certify that on this 16TH day of August 2021, a true and correct copy of the foregoing Notice of Removal was served via the CM/ECF filing system and properly addressed to:

ATTORNEY FOR PLAINTIFF

Jeffrey R. McCarthy
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/s/ Scott R. Breitenwischer
Scott R. Breitenwischer

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C.A. NO. 4:21-cv-2665

AFFIDAVIT OF SCOTT R. BREITENWISCHER

[illegible]

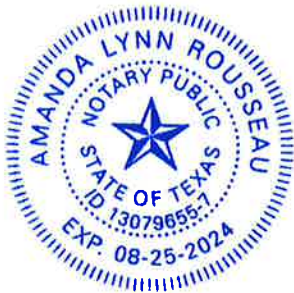
BEFORE ME the undersigned authority personally appeared Scott R. Breitenwischer and after being sworn did state and depose the following:


1. My name is Scott Breitenwischer. I am over the age of 18 years and am fully competent to make this affidavit. Each statement contained herein is true and correct and based upon my individual personal knowledge.

2. I am the attorney of record and attorney in charge for Defendants Keurig Dr. Pepper, Inc., DPS Holdings, Inc. d/b/a Dr. Pepper Snapple Holdings, Inc., Kroger Texas, L.P. and Kroger Co. as named in the foregoing instrument. The recitations of fact contained in the Notice of Removal to which this affidavit is attached are true and correct to the best of my knowledge.

3. Exhibits 1-4 are true and correct copies of documents taken from the United States Security Exchange Commission website. Exhibit 5 is a true and correct copy of Plaintiff's Original Petition, filed in state court.

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, on this the 16TH day of August, 2021.





Scott R. Breitenwischer



Notary Public in and for the State of Texas